

REMARKS

Claims 19 and 80-83 are pending. Claim 19 has been amended herein to more clearly define the invention. Support for this amendment to claim 19 can be found in the specification as filed, *e.g.*, page 62, line 10 to page 66, line 8; page 66, line 22 to page 67, line 26; and Table 49. Support for new claims 80-83 can be found at, *e.g.*, page 62, line 10 to page 66, line 8; page 66, line 22 to page 67, line 26; and Table 49. No new matter has been added by this amendment.

Prior Objections and Rejections

Applicants note with appreciation that the Objection to the disclosure and claim 19, and the rejection of claim 19 under 35 USC §112 1st paragraph and 35 USC §102(e) have been withdrawn.

Rejection Under 35 USC § 102(e)

Claim 19 has been rejected under 35 USC § 102(e) as anticipated by WO 01/076121 (“Au-Young”). The Examiner states that “Au-Young et al. teach an isolated polynucleotide comprising a nucleic acid sequence (SEQ ID NO: 41 of claim 11) encoding the amino acid sequence of SEQ ID NO: 24. Au-Young et al. further teach a method for determining the presence or amount of such a nucleic acid in a sample (claim 13).” (See Office Action, page 3).

Applicants have amended claim 19 to recite, in part, “A method for determining the presence or amount of a nucleic acid molecule in a sample, said nucleic acid molecule comprising a nucleic acid sequence encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 24 and further comprising nucleotides 45-54 of SEQ ID NO:23 or a variant thereof, wherein said variant comprises a nucleic acid wherein one nucleotide is changed from the nucleotides 45-54 of SEQ ID NO:23, or the complement of said nucleic acid sequence...” Applicants note that nucleotides 1-54 of SEQ ID NO: 23 are found in the 5’ untranslated region (5’UTR). Au-Young does not teach or suggest the 5’UTR of a nucleic acid molecule encoding the amino acid sequence of SEQ ID NO: 24. Specifically, Au-Young does not teach or suggest a

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U.S.S.N.: 09/898,586

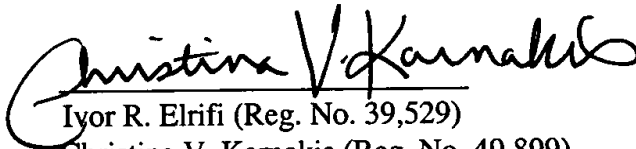
nucleic acid comprising nucleotides 45-54 of SEQ ID NO:23, as recited in amended claim 19. Thus, Au-Young does not anticipate claim 19, as amended herein. Moreover, new claims 80-83, which each recite portions of the 5'UTR of SEQ ID NO: 23, also are not anticipated by Au-Young. Therefore, Applicants contend that claims 19 and 80-83 are novel in view of this reference. Thus, this rejection should be withdrawn.

CONCLUSION

Applicants submit that the Examiner's rejections have been overcome based on the enclosed amendments and remarks. Applicants therefore respectfully request that the pending claim be found allowable at this time. Should any questions or issues arise concerning the application, the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

April 14, 2003



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Claim 19 has been amended as follows:

19. (Thrice Amended) A method for determining the presence or amount of a nucleic acid molecule in a sample, said nucleic acid molecule comprising a nucleic acid sequence encoding a polypeptide comprising the amino acid sequence of SEQ ID NO: 24 and further comprising nucleotides 45-54 of SEQ ID NO:23 or a variant thereof, wherein said variant comprises a nucleic acid sequence wherein one nucleotide is changed from the nucleotides 45-54 of SEQ ID NO:23, or the complement of said nucleic acid sequence, said method comprising:
- (a) providing said sample;
 - (b) introducing said sample to a probe that binds to said nucleic acid molecule; and
 - (c) determining the presence or amount of said probe bound to said nucleic acid molecule,
- thereby determining the presence or amount of the nucleic acid molecule in said sample.

New claims 80-83 were added as follows:

80. (New) The method of claim 19, wherein said nucleic acid molecule further comprises nucleotides 35-54 of SEQ ID NO:23, or a variant thereof, wherein said variant comprises a nucleic acid wherein one nucleotide is changed from nucleotides 35-45 of SEQ ID NO:23.
81. (New) The method of claim 19, wherein said nucleic acid molecule further comprises nucleotides 25-54 of SEQ ID NO:23, or a variant thereof, wherein said variant comprises a nucleic acid wherein one nucleotide is changed from nucleotides 25-54 of SEQ ID NO:23.

82. (New) The method of claim 19, wherein said nucleic acid molecule further comprises nucleotides 15-54 of SEQ ID NO:23, or a variant thereof, wherein said variant comprises a nucleic acid wherein one nucleotide is changed from nucleotides 15-54 of SEQ ID NO:23.
83. (New) The method of claim 19, wherein said nucleic acid molecule further comprises nucleotides 1-54 of SEQ ID NO:23, or a variant thereof, wherein said variant comprises a nucleic acid wherein one nucleotide is changed from nucleotides 1-54 of SEQ ID NO:23.

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